



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Security Van Lines

**File:** B-254197

**Date:** February 2, 1994

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### DIGEST

A carrier may be liable for transit damage to an item not listed on the inventory if there is substantive evidence that the shipper tendered it to the carrier for transport.

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### DECISION

The United States Army Claims Service requests review of our Claims Group's settlement allowing Security Van Lines an \$87 refund; the Army deducted this amount from Security's bills to recover for transit damage caused by the carrier while moving a Service member's household goods.<sup>1</sup> We reverse the Claims Group's settlement.

The record indicates that the damaged item, a decorative copper pot, was not listed on the inventory. The member contends that he tendered it to Security at origin in good condition but found it at destination on his front lawn, set in a green plastic laundry basket, without packing material, and in a dented condition. The basket also contained two legs from a small table. The member states that he photographed the pot as it came off the truck on the day of delivery; the photograph is included in the record. Laundry baskets and a small table were listed on the inventory.

Our Claims Group agreed with Security that there was no evidence that the damaged pot was tendered to or delivered by the carrier. The Claims Group was particularly concerned about the absence of a statement by the member reflecting some personal knowledge of the circumstances of the tender.

To establish a prima facie case of liability against the carrier, a shipper must prove, among other things, that he tendered the damaged item to the carrier for transportation. Tender generally is established by the fact that the item is listed on the inventory, but a carrier can be held liable for damage to an unlisted item if there is some other

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<sup>1</sup>The shipment moved under Government Bill of Lading PP-134,267.

substantive evidence of tender. See Sentry Household Shipping, Inc., B-243922, July 22, 1991; Department of the Army-Request for Reconsideration, B-205084, June 8, 1983. We have held that when a statement by the shipper is the only evidence of tender, it is essential that this statement reflect some personal knowledge of the circumstances surrounding the tender. See Aalmode Transportation Corp., B-240350, Dec. 18, 1990.

Here, the Army should have obtained a specific statement from the member describing the circumstances surrounding his transfer of the pot to Security. In our view, however, the record includes enough other evidence for the Army to have reasonably concluded that the member tendered the pot and that the damage was the sort likely to occur during transit.

The picture taken at destination depicts a dented pot in the clothes basket with the two wooden legs. The co-location of the pot with items that were included in the shipment and placed on the front lawn by the carrier on the day of delivery is circumstantial evidence that the pot was shipped with the other items. Furthermore, the damage was consistent with other particular damage (e.g., a split in a plastic can which is consistent with smashing items together) and the general condition of the shipment - it appears that items were simply thrown together into boxes without sufficient packing material.

The Army is in the best position to consider and evaluate the facts, and has concluded that they support tender of the copper pot to Security. The record, as described above, supports the reasonableness of the Army's conclusion. Accordingly, the Claims Group's settlement in favor of the carrier is reversed.

*for* *Seymour E. Hoo*  
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Acting General Counsel